

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Paul Leslie Cox,

Plaintiff,

v.

The President of the United States of
America,

Defendant.

C.A. No. 2:10-3249-TMC

ORDER

Paul Leslie Cox (“Plaintiff”), a *pro se* prisoner, filed a Complaint pursuant to 42 U.S.C. § 1983. (Doc # 1). Plaintiff also filed a Motion for Leave to Proceed *in forma pauperis* under 28 U.S.C. § 1915. (Doc # 7). Plaintiff is subject to the three-strikes rule of the Prison Litigation Reform Act (PLRA), and he does not allege that he is under imminent danger of serious physical injury.

The Magistrate Judge’s Report and Recommendation [Doc. #10], filed on March 3, 2011, recommends that the Court deny the Plaintiff’s Motion for Leave to Proceed *in forma pauperis* and that the Plaintiff be given fifteen (15) days from the date of this Order to pay the filing fee (currently \$350.00), and that the Office of the Clerk of Court withhold entry of judgment until such time expires. The Magistrate also recommended that if the Plaintiff fails to pay the filing fee, that the Complaint be dismissed without prejudice under the three-strikes rule of 28 U.S.C. § 1915(g). The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge’s Report herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report and Recommendation (Doc. # 10 at 4). However, Plaintiff filed no objections to the Report and Recommendation.

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case,

the court adopts the Magistrate Judge's Report and Recommendation (Doc. #10) and incorporates it herein. It is therefore **ORDERED** that the Plaintiff's Motion to Proceed *in forma pauperis* (Doc. # 7) is **DENIED**. Furthermore, the Plaintiff shall have fifteen (15) days from the date of this Order to pay the filing fee (currently \$350.00), and the Office of the Clerk of Court shall withhold entry of judgment until such time expires. If the Plaintiff fails to pay the filing fee, the Complaint shall be dismissed without prejudice under the three-strikes rule of 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

s/ Timothy M. Cain
United States District Judge

Greenville, South Carolina.
October 19, 2011.

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.